

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STEVEN PICKETT,

Defendant-Appellant.

UNPUBLISHED

July 13, 2001

No. 223005

Wayne Circuit Court

LC No. 98-008141

Before: Saad, P.J., and Holbrook, Jr., and Murphy, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction of carrying a concealed weapon (CCW) in a vehicle, MCL 750.227(2), entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

At trial, a police officer testified that he observed defendant reach behind the driver's seat of a vehicle, pull out a handgun, and give the weapon to another man. The officer maintained that he observed defendant engage in these activities notwithstanding the fact that he was concealed behind thin shrubbery some twenty-five to thirty feet away from the vehicle. Defendant and the other man were arrested. Another officer testified that the man accompanying defendant was found with a handgun on his person. Defendant testified that he was driving a friend's rental car on the night in question, and that he did not possess a weapon.

The trial court found defendant guilty. The court found the testimony of the officer who observed defendant more credible than that given by defendant.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In a bench trial, the court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the court was aware of the issues and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). We review a trial court's findings of fact for clear error. MCR 2.613(C); *People v Hermiz*, 235 Mich App 248, 255; 597 NW2d 218 (1999), aff'd by equal division 462 Mich 71; 611 NW2d 783 (2000).

The elements of CCW in a vehicle are: (1) the pistol was in a vehicle operated or occupied by the defendant; (2) the defendant knew that the pistol was in the vehicle; and (3) the defendant took part in carrying or keeping the pistol in the vehicle. CJI2d 11.1. Carrying a concealed weapon is a general intent crime. The only intent needed is that necessary to do the prohibited act, i.e., to knowingly carry a weapon in a vehicle. *People v Combs*, 160 Mich App 666, 673; 408 NW2d 420 (1987). The element of "carrying" is not specifically defined, *People v Butler*, 413 Mich 377, 390; 319 NW2d 540 (1982), but is distinct from knowledge of the weapon's presence in the vehicle, and does not automatically follow from proof of knowledge. *People v Courier*, 122 Mich App 88, 90; 332 NW2d 421 (1982).

Defendant argues that the evidence was insufficient to support his conviction. We disagree and affirm. The officer identified defendant as the person he saw pull a handgun from behind the driver's seat of a vehicle and hand it to the other man. Defendant admitted that he drove the vehicle to the location, but denied that he possessed a gun. As the trier of fact, the trial court was entitled to conclude that the testimony given by the police officer was more credible than that given by defendant. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). The evidence that the handgun was located behind the driver's seat, in an area easily accessible to defendant, supported an inference that defendant was carrying the weapon. *Courier, supra*, 90-91. The prosecution was not required to prove that defendant concealed the weapon in the vehicle. MCL 750.227(2); MSA 28.424(2); CJI2d 11.1. Cf. *People v Kincade*, 61 Mich App 498; 233 NW2d 54 (1975) (evidence must establish concealment of weapon on person). Viewed in a light most favorable to the prosecution, the evidence was sufficient to support defendant's conviction of CCW in a vehicle. *Petrella, supra*.

Affirmed.

/s/ Henry William Saad
/s/ Donald E. Holbrook, Jr.
/s/ William B. Murphy